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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR 08-00694 SBA
)	
Plaintiff,)	STIPULATION AND [PROPOSED]
)	ORDER CONTINUING STATUS
v.)	CONFERENCE AND EXCLUDING TIME
)	
GABRIEL MAGANA VALDEZ,)	
)	
Defendant.)	

Plaintiff, by and through its attorney of record, and defendant, by and through his attorney of record, hereby stipulate and ask the Court to find as follows:

1. A status conference in this matter is currently scheduled for 9 a.m. on Tuesday, January 20, 2009.

2. The parties request that this hearing be continued until 9 a.m. on Tuesday, March 3, 2009, in order to provide defendant's counsel with additional time to evaluate the evidence in this case and determine whether or not defendant should enter a change of plea or file motions and to prepare for trial in this matter.

STIPULATION AND ORDER RESCHEDULING
HEARING; EXCLUDING TIME

3. Specifically, defendant's counsel needs the continuance in order to review discovery soon to be produced regarding defendant's immigration status and prior felony narcotics conviction, as well as soon to be produced laboratory results regarding the drugs seized in this case, and to schedule and conduct a meeting with the government to physically examine evidence seized, to review and analyze the discovery materials produced, investigate the case, and develop a motions and/or trial strategy in light of that discovery. The parties believe that failure to grant the above-requested continuance would deny defendant's counsel and defendant the reasonable time necessary for effective preparation taking into account the exercise of due diligence and that the ends of justice served by continuing the case as requested outweigh the interest of the public and defendant in a trial within the date prescribed by the Speedy Trial Act.

4. Thus, the parties respectfully request that the Court find that the time period from January 20, 2009, to March 3, 2009, is excludable pursuant to 18 U.S.C. §§ 3161(h)(8)(A), (B)(iv) because it results from a continuance granted by the Court at the defendant's request and on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendants in a speedy trial and because failure to grant the continuance would unreasonably deny defense counsel the time necessary for effective preparation for trial, taking into account due diligence.

IT IS SO STIPULATED.

JOSEPH P. RUSSONIELLO
United States Attorney

Dated: January 16, 2009

/s/
GARTH HIRE
Assistant United States Attorney
Attorney for United States of America

Dated: January 16, 2009

/s/
NICHOLAS REYES
Attorney for Defendant
Gabriel Magana Valdez

[PROPOSED] ORDER

Based on the parties' representations above:

1. The currently scheduled January 20, 2009, status conference hearing is vacated. A status conference hearing is now scheduled for 9:00 a.m. on March 3, 2009.
2. The time period from January 20, 2009, to March 3, 2009, is deemed excludable pursuant to 18 U.S.C. §§ 3161(h)(8)(A), (B)(iv) because it results from a continuance granted by the Court at the defendant's request and on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial and because failure to grant the continuance would unreasonably deny defense counsel the time necessary for effective preparation for trial, taking into account due diligence.

DATED: 1/16/09


HONORABLE SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE